

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 559
FINAL READING

Introduced by Kristensen, 37; Thompson, 14; Jensen, 20; Byars, 30;
Jones, 43

Read first time January 19, 1999

Committee: Rereferred to Health and Human Services

A BILL

- 1 FOR AN ACT relating to public health; to adopt the Nebraska
- 2 Telehealth Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 8 of this act shall be known
2 and may be cited as the Nebraska Telehealth Act.

3 Sec. 2. The Legislature finds that:

4 (1) Access to health care facilities and health care
5 practitioners is critically important to the citizens of Nebraska;

6 (2) Access to a continuum of health care services is
7 restricted in some medically underserved areas of Nebraska, and
8 many health care practitioners in such areas are isolated from
9 mentors, colleagues, and information resources necessary to support
10 them personally and professionally;

11 (3) The use of telecommunications technology to deliver
12 health care services can reduce health care costs, improve health
13 care quality, improve access to health care, and enhance the
14 economic health of communities in medically underserved areas of
15 Nebraska; and

16 (4) The full potential of delivering health care services
17 through telehealth cannot be realized without the assurance of
18 payment for such services and the resolution of existing legal and
19 policy barriers to such payment.

20 Sec. 3. For purposes of the Nebraska Telehealth Act:

21 (1) Department means the Department of Health and Human
22 Services Finance and Support;

23 (2) Health care practitioner means a Nebraska
24 medicaid-enrolled provider who is licensed, registered, or
25 certified to practice in this state by the Department of Health and
26 Human Services Regulation and Licensure;

27 (3) Telehealth means the use of telecommunications
28 technology by a health care practitioner to deliver health care

1 services within his or her scope of practice at a site other than
2 the site where the patient is located; and

3 (4) Telehealth consultation means any contact between a
4 patient and a health care practitioner relating to the health care
5 diagnosis or treatment of such patient through telehealth but does
6 not include a telephone conversation, electronic mail message, or
7 facsimile transmission between a health care practitioner and a
8 patient or a consultation between two health care practitioners.

9 Sec. 4. The Nebraska Telehealth Act does not: (1) Alter
10 the scope of practice of any health care practitioner; (2)
11 authorize the delivery of health care services in a setting or
12 manner not otherwise authorized by law; or (3) limit a patient's
13 right to choose in-person contact with a health care practitioner
14 for the delivery of health care services for which telehealth is
15 available.

16 Sec. 5. (1) Prior to an initial telehealth consultation
17 under section 6 of this act, a health care practitioner who
18 delivers a health care service to a patient through telehealth
19 shall ensure that the following written information is provided to
20 the patient:

21 (a) A statement that the patient retains the option to
22 refuse the telehealth consultation at any time without affecting
23 the patient's right to future care or treatment and without risking
24 the loss or withdrawal of any program benefits to which the patient
25 would otherwise be entitled;

26 (b) A statement that all existing confidentiality
27 protections shall apply to the telehealth consultation;

28 (c) A statement that the patient shall have access to all

1 medical information resulting from the telehealth consultation as
2 provided by law for patient access to his or her medical records;
3 and

4 (d) A statement that dissemination of any patient
5 identifiable images or information from the telehealth consultation
6 to researchers or other entities shall not occur without the
7 written consent of the patient.

8 (2) The patient shall sign a written statement prior to
9 an initial telehealth consultation, indicating that the patient
10 understands the written information provided pursuant to subsection
11 (1) of this section and that this information has been discussed
12 with the health care practitioner or his or her designee. Such
13 signed statement shall become a part of the patient's medical
14 record.

15 (3) If the patient is a minor or is incapacitated or
16 mentally incompetent such that he or she is unable to sign the
17 written statement required by subsection (2) of this section, such
18 statement shall be signed by the patient's legally authorized
19 representative.

20 (4) This section shall not apply in an emergency
21 situation in which the patient is unable to sign the written
22 statement required by subsection (2) of this section and the
23 patient's legally authorized representative is unavailable.

24 Sec. 6. (1) On or after July 1, 2000, in-person contact
25 between a health care practitioner and a patient shall not be
26 required under the medical assistance program established in
27 sections 68-1018 to 68-1025 and Title XXI of the federal Social
28 Security Act, as amended, for health care services delivered

1 through telehealth that are otherwise eligible for reimbursement
2 under such program and federal act. Such services shall be subject
3 to reimbursement policies developed pursuant to such program and
4 federal act. This section also applies to managed care plans which
5 contract with the department pursuant to the Managed Care Plan Act
6 only to the extent that:

7 (a) Health care services delivered through telehealth are
8 covered by and reimbursed under the medicaid fee-for-service
9 program; and

10 (b) Managed care contracts with managed care plans are
11 amended to add coverage of health care services delivered through
12 telehealth and any appropriate capitation rate adjustments are
13 incorporated.

14 (2) The reimbursement rate for a telehealth consultation
15 shall, as a minimum, be set at the same rate as the medical
16 assistance program rate for a comparable in-person consultation.

17 (3) The department shall establish rates for transmission
18 cost reimbursement for telehealth consultations, considering, to
19 the extent applicable, reductions in travel costs by health care
20 practitioners and patients to deliver or to access health care
21 services and such other factors as the department deems relevant.

22 Sec. 7. A health care facility licensed pursuant to
23 sections 71-2017 to 71-2029 that receives reimbursement under the
24 Nebraska Telehealth Act for telehealth consultations shall
25 establish quality of care protocols and patient confidentiality
26 guidelines to ensure that such consultations meet the requirements
27 of the act and acceptable patient care standards.

28 Sec. 8. By July 1, 2000, the department shall adopt and

1 promulgate rules and regulations to carry out the Nebraska
2 Telehealth Act, including, but not limited to, rules and
3 regulations to: (1) Ensure the provision of appropriate care to
4 patients; (2) prevent fraud and abuse; and (3) establish methods
5 and procedures necessary to safeguard against unnecessary
6 utilization of telehealth consultations.